

12/21/15

Case # 11686
201507996

**Board of Adjustment Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check all applicable) 115-X 115-72C

Variance ☐
Special Use Exception ☒
Administrative Variance ☐
Appeal ☐

Site Address of Variance/Special Use Exception:

19878 Hebron Road, Rehoboth Beach, DE 19971

Variance/Special Use Exception/Appeal Requested:

A special use exception is requested for Immanuel Shelter to operate an Emergency Shelter at this site to provide a place for those experiencing homelessness to have an emergency place to stay on a short term basis.

Tax Map #: 3-34 13.19 2.00

Property Zoning: B-1

Applicant Information

Applicant Name: Immanuel Shelter, Inc.

Applicant Address: P O Box 431

City Nassau State DE Zip: 19969

Applicant Phone #: (516) 330-4760 Applicant e-mail: immanuelshelter@aol.com

Owner Information

Owner Name: Rehoboth Appraisal Group, LLC

Owner Address: 19878 Hebron Road

City Rehoboth Beach State DE Zip: 19971 Purchase Date: 3/5/05

Owner Phone #: Owner e-mail:

Agent/Attorney Information

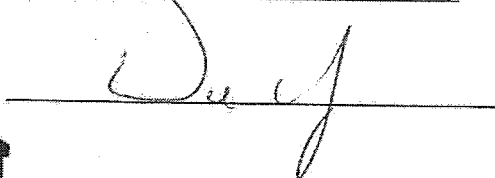
Agent/Attorney Name: David C. Hutt, Esq., Morris James Wilson Halbrook & Bayard, LLP

Agent/Attorney Address: 107 W. Market Street

City Georgetown State DE Zip: 19947

Agent/Attorney Phone #: (302) 856-0015 Agent/Attorney e-mail: dhutt@morrisjames.com

Signature of Owner/Agent/Attorney



Date: 9/9/2015



Criteria for a Special Use Exception: (Please provide a written statement regarding each criteria)

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Special Use Exception to be granted.

1. Such exception will not substantially affect adversely the uses of adjacent and neighboring property.

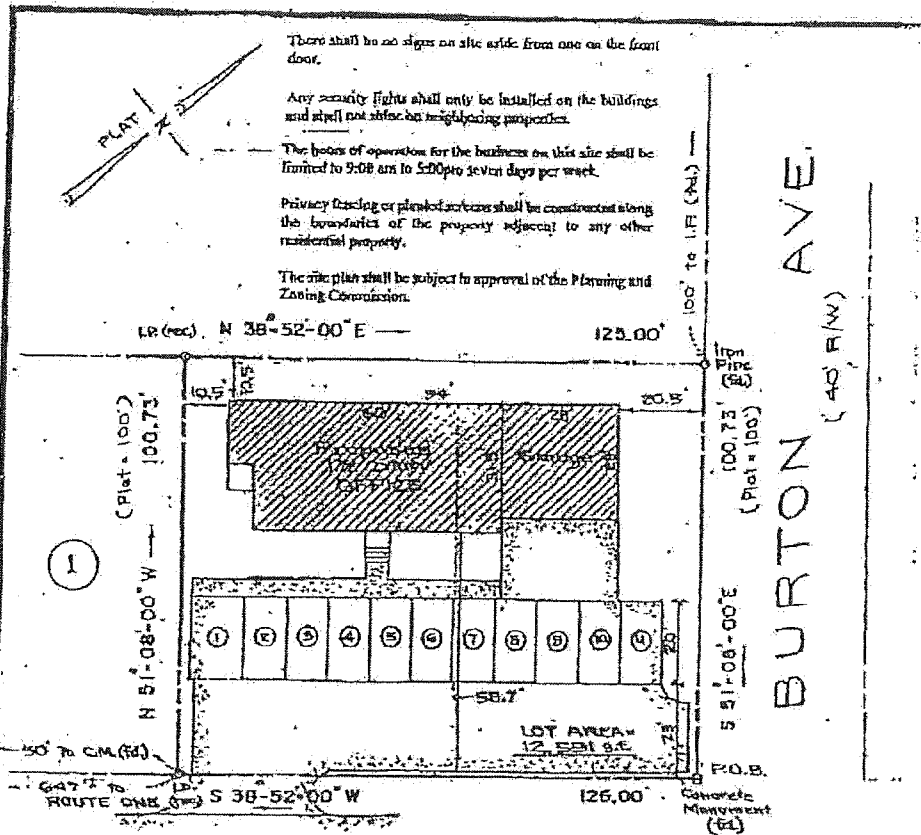
The special use exception will not substantially affect adversely the uses of adjacent and neighboring properties as the surrounding properties are a mixture of residential and commercial uses. The proposed special use exception is a residential use for a supervised emergency shelter providing shelter to those in the area experiencing homelessness. Currently there is a history of a documented homeless population that Immanuel has been serving without a permanent structure for over 5 years.

2. Any other requirements which apply to a specific type of special use exception as required by the Sussex County Code. (Ex. Time limitations – 5 year maximum)

N/A

Basis for Appeal: (Please provide a written statement regarding reason for appeal)

N/A



TOTAL FLOOR AREA ... 3,462 sq ft
 NET OFFICE AREA ... 2,055 sq ft
 PARKING REQD. 11 Spaces
 (1 per 200 Net)
 PARKING SHOWN 11 Spaces
 (10' x 20')

LOTS #2 & #3 "WEST REHOBOTH"

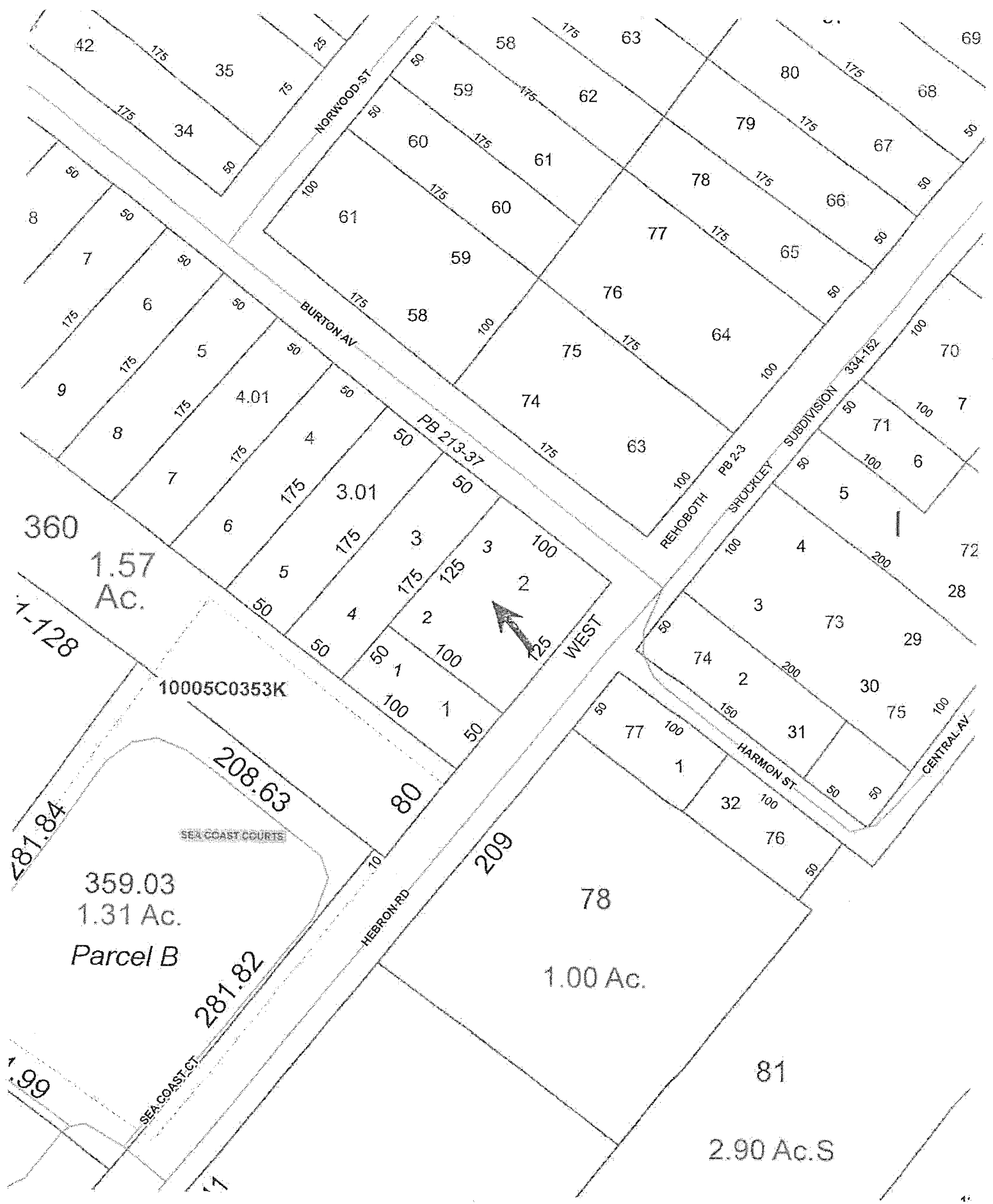
Prepared for
SARAH TAMMANY & CAROLE LEVITSKY
 Located in
 LEWES & REHOBOTH HUNDRED — SUSSEX CO. — DELAWARE
 Scale: 1"=30' Oct. 8, 2004

William F. Carey, Jr.

COAST SURVEY, INC.
 Land Surveying & Planning
 P.O. BOX 117
 NARBERT, DE 19559
 (302) 645-7184

3-34-13.19-2

895-15



360

1.57
Ac.

1-128

10005C0353K

208.63

281.84

359.03
1.31 Ac.

Parcel B

281.82

1.99

SEA COAST CT

HEBRON RD

209

1.00 Ac.

78

81

2.90 Ac.S

BURTON AV

PB 213-37

REHOBOTH

SHUCKLEY

SUBDIVISION

334-152

HARMON ST

CENTRAL AV



WEST

MINUTES OF DECEMBER 21, 2015

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 21, 2015, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

~~Case No. 11680 – KJR Holdings, LLC~~ seek variances from the side yard and rear yard setback requirements (Section 115-82B of the Sussex County Zoning Ordinance). The property is located on the northwest side of John J. Williams Highway (Route 24) approximately 624 feet east of Washington Street Ext. 911 Address: 29920 John J. Williams Highway, Millsboro. Zoning District: C-1. Tax Map No.: 2-34-32.00-38.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Kelly Racz was sworn in to testify about the Application. William Schab, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Schab stated that the Applicant is requesting a variance of 3.5 feet from the five (5) feet side yard setback requirement on the east side and a variance of 0.4 feet from the twenty (20) feet rear yard setback requirement for an existing building; that a survey completed for settlement showed the encroachments; that the existing building encroaches in the side yard setback area; that the previous owner built the commercial building in 1971; that the prior owner was unaware of the encroachments; that the Property is irregularly shaped making it unique; that a portion of the building encroaches slightly into the rear yard setback; that the shed on the survey that was also encroaching into the setback area has been removed; that the Property cannot otherwise be developed without removing part of the building; that the difficulty was not created by the Applicant; that, since the structure has been on the lot for many years, the variances do not alter the character of the neighborhood; that there have not been complaints about the location of the

~~Mr. Wagner, under oath, affirmed the statements made by Mr. Aleman. Mr. Wagner testified that he would have remove the garage and addition to the house in order to comply with the Sussex County Zoning Code; and that the shed can be and will be moved into compliance.~~

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval in part and denial in part of Variance Application No. 11685. Mr. Rickard moved that the requested side and rear variances for the existing attached garage and the existing dwelling be approved based on the record made at the public hearing for the following reasons:

1. Certificate of Compliances have been issued for the dwelling;
2. The location of the adjacent cul-de-sac and the shape of the Property make it unique;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicants;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

As part of his motion, Mr. Rickard moved that the variance for the shed be denied based on the record made at the public hearing and for the following reason:

1. The Applicant testified that the shed would be moved into compliance thus the variance was not necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that **the side and rear yard variances be granted for the existing attached garage and the existing dwelling and the side yard variance for the existing shed be denied.** Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11686 – Immanuel Shelter, Inc. – seeks a special use exception to operate an emergency homeless shelter (Section 115-72C of the Sussex County Zoning Ordinance). The property is located on the northwest corner of Hebron Road and Burton Avenue. 911 Address: 19878 Hebron Road, Rehoboth Beach. Zoning District: B-1. Tax Map No.: 3-34-13.19-2.00.

Ms. Cornwell presented the case and read nine (9) letters of opposition into the record and read three (3) letters of support into the record that the Office of Planning and Zoning received.

Janet Idema, Maxwell Wolf, and Glenn Piper were sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a special use exception to operate an emergency homeless shelter; that many homeless persons lived in an area referred to as “Tent

City” near Wal-Mart in Rehoboth; that the Applicant assisted the persons living in “Tent City” with finding alternate living arrangements; that the Applicant is a 501(c)(3) organization which assists homeless persons in the greater Lewes-Rehoboth Beach-Dewey Beach area; that the Applicant currently operates at the Faith United Methodist Hall as a Code Purple shelter; that the Code Purple shelter is open from December 1 until April 1; that the proposed use is not the same as a Code Purple shelter; that the use will not have a negative physical, financial or societal impact on the neighborhood; that the Property is located in the West Rehoboth community and consists of approximately $\frac{1}{4}$ acre; that the Property is improved by a building formerly used as office space for an appraisal company; that the Property is zoned B-1; that the Delaware State Housing Authority has determined that this area is “impacted”; that the area near the Property consists of a mixed use of businesses and residences; that the exterior of the existing building will remain the same but the Applicant plans to add additional lighting and a privacy fence to the Property; that the interior of the existing building will be remodeled to include the installation of a comprehensive fire suppression system and to make the building FHA and ADA compliant; that the shelter will have five (5) bedrooms with a capacity of twenty-two (22) people; that the Property is an ideal location for the shelter; and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Glenn Piper testified that he is a licensed appraiser and has worked as an appraiser for approximately twenty-three (23) years; that he has appeared in Delaware Courts to serve as an expert witness; that he is familiar with the Property and the surrounding area; that the use will not negatively impact the property values of the surrounding properties; that the West Rehoboth community has improved in recent years; that he has researched the impact of homeless shelters on property values for nearby properties; that it is difficult to value properties in West Rehoboth as there are so few transactions in the community and, often, those transactions are complicated or have unique circumstances; that Habitat for Humanity has placed a home in the community; that he has never seen negative impact on property values from group housing; that there are examples where property values have increased; that his experience has shown no impact on property values from homeless shelters; that many shelters and group homes fall under the radar and are not noticed by neighbors; that the highest and best use of the building is not as an office or as a residence; that the highest and best use of the building is as a specialty use; that the location is within walking distance of downtown Rehoboth Beach; and that bus transportation is available nearby.

Janet Idema testified that she is the President of the Board for Immanuel Shelter; that she has been with the organization for six (6) years; that the organization currently helps homeless in the Lewes, Rehoboth Beach, and Dewey Beach area; that housing is a basic need for people; that the Code Purple shelters are only open when the temperature is below 32 degrees and persons must leave each day; that the Applicant’s Code Purple shelter located at the Faith Fellowship Hall on Oyster House Road is open from December 1 to April 1 regardless of the temperature and is open to anyone; that an emergency shelter differs from a Code Purple shelter; that individuals are not required to leave the shelter each day and may stay up to 90 days depending on how they progress through a list of expectations; that all residents must go through the Central Homeless Planning System; that all residents will be vetted by the Delaware State Homeless Planning Council and the HUD process which focuses on dangerousness; that the residents cannot be sex offenders, have no active capias, or have a history of violent offenses; that the Delaware State Police Troop 7 will

also vet all potential residents to confirm that these standards are met; that the Applicant has drafted an intake policy, admission criteria, and house rules; that all residents must meet and follow the shelter's rules and regulations during their stay; that no drugs, alcohol, or weapons are permitted in the shelter; that residents are required to attend self-help groups, counseling, and life skills classes; that residents must be actively seeking employment; that the shelter is not a walk-up facility and no visitors are allowed; that the Applicant has met with West Side New Beginnings to discuss the proposed shelter; that the Applicant hopes to work with West Side New Beginnings; that the Applicant looked at three (3) other properties for the shelter; that in order to qualify for State funding the shelter must be located in a highly impacted area and within 1.5 miles from certain amenities such as grocery, banking, bike path, bus routes, and libraries; and that this location meets all of those requirements.

Maxwell Wolf testified that he is the reverend at All Saints Church and is involved with a task force on homeless in this area; that the Community Resource Center is located near Route 1 and provides employment training; that it is very difficult to find an appropriate location for this type of shelter; that it is particularly expensive to find a location within a mile of the Community Resource Center; that homeless persons are camping in the nearby woods and are already in the area; that the shelter will help connect the homeless with job placement and other services needed; that he has been working with homeless people since 2001; and that he has never seen a negative effect in a neighborhood from a shelter.

In summary, David Hutt stated that the use will not substantially adversely affect the uses of the surrounding and neighboring properties; that a licensed appraiser testified the shelter would not have a negative impact to the property values in the area; that loitering will not be an issue; that the daycare or after school programs will not be negatively impacted due to the screening process all residents must pass in order to stay at the shelter; and that any violations to the rules and regulations result in expulsion from the shelter.

Janet Idema testified that the residents will stay at the shelter for 30 to 60 days and 90 days would be the maximum allowable time to stay at the shelter; that each person at the shelter will have their own bed and dresser; that the residents will receive mail at the shelter and will likely consider it to be their home for the duration of their stay; that no visitors are allowed in the shelter; that the vetting process is estimated to take a couple of days; that the vetting process will prevent some homeless from coming to the shelter for help because they will already know they will not qualify or want to comply with the regulations; that there is a similar shelter in Milton known as Casa San Francisco; that the shelter provides the residents with job training; that the Applicant helps with transportation when needed; that the street is dark near the Property so the Applicant will install street lighting along the front of the Property; and that the lighting will improve safety in the community.

Ms. Idema, under oath, affirmed the statements made by Mr. Hutt.

Rhona Prescott was sworn in and testified in support of the Application and testified that she is a social worker; that homeless people are already in the area; that there have not been any

police incidents in the area involving the current homeless; and that an emergency shelter is greatly needed in this area.

Jim Martin was sworn in and testified in support of the Application and testified that he is involved with a similar shelter in Seaford; that the shelter is near the Seaford Christian Academy; that the shelter has had no negative impact to the neighborhood; that the shelter and the center have a positive relationship and have held a successful joint event; that he has worked in opening 23 transitional homes in the State of Delaware; that those homes are located near parks and schools; and that the Seaford shelter is less restrictive than the proposed shelter and has not experienced any incidents.

John Elliott was sworn in and testified in support of the Application and testified that he is has been homeless since October 2015 after the loss of his mother; that he currently uses the Code Purple Shelter when available; that Immanuel Shelter has helped him a great deal; that he is currently seeking employment; and that this shelter would be a very positive environment.

Randy Redard was sworn in and testified in support of the Application and testified that he is the counselor and homeless liaison for the Cape Henlopen School District; that there are a number of children in the area that are homeless; and that he believes there is a need for this type of shelter.

Maryanne Zakreski was sworn in and testified in support of the Application and testified that she lives and works in the Lewes Rehoboth area; and that Project Home in Philadelphia runs shelters and in areas near the shelters property values have increased over the years.

Janet Maull-Martin was sworn in and testified in opposition to the Application and testified that she is the President of West Side New Beginnings Board of Directors and a former teacher; that her position is not against the homeless; that the shelter should not be in such close proximity to a children's community center; that the children may stop coming to the center with the homeless shelter so close; that the Applicant did not make any attempt to contact her organization; that the shelter is approximately 150 feet from the children's center; that the existence of the shelter may deter the participation of children in the programs at the children's center; that homeless shelters should not be located near children's centers; that the safety of the children is a great concern; and that the Applicant has not met the standard for a special use exception because this use will substantially adversely affect the surrounding and neighboring properties.

Mardi John was sworn in and testified in opposition to the Application and testified that she purchased property in the West Rehoboth community in 2012; that she likes that the community consists of year round residents that take pride in their community; that the history of the community was troubled but the residents have united and revitalized the area; that the community stabilizes when you have permanent, year-round residents; that she has concerns about the temporary residents who will reside at the shelter; that the shelter will bring strangers to the area; that she is concerned that the temporary residents will not be invested in continuing the revitalization of West Rehoboth; that she is concerned for the safety of the residents of the

community; and that the shelter will adversely affect the uses of the neighboring and adjacent properties.

Brenda Milbourne was sworn in and testified in opposition to the Application and testified that she lives in the area; that there are no homeless people in the area; that a number of children in the community attend the West Side New Beginnings Community Center; that the center has provided a safe and educational option for children of working parents; that she is concerned about increased traffic to the area; that the shelter will hurt the growth of the community; that she has concerns that the shelter will affect the safety and property values in the community; and that she believes the police have been called to Immanuel Shelter at its other location seven times.

Paul Eberhardt was sworn in and testified in opposition to the Application and testified that he lives on Burton Road; and that there are fifty-one (51) occupied homes in the area. Mr. Eberhardt submitted exhibits and a petition of opposition to the shelter signed by a majority of homeowners in the area for the Board to review.

Robert Paul was sworn in and testified in opposition to the Application and testified that he owns property in the area; that he is concerned the vetting process will not work; that there are twenty-seven (27) states that have banned homeless shelters from being less than 500 feet from a community center where children attend; that parents will be afraid to take their children to the community center if the homeless shelter is approved; that the West Rehoboth community is fragile and has experienced problems with drugs in the past; that hundreds of people use the nearby bike path and feels this use will jeopardize the safety of the bike path; and that there are no homeless people in the West Rehoboth area.

Chuck King was sworn in and testified in opposition to the Application and testified that he is the President of the Homeowners Association for Sea Coast Court; that Sea Coast Court is adjacent to the Property; that he is concerned the shelter will adversely affect his community's property values; and that there is a drug sting operation currently in the Applicant's parking lot.

Richard Faull was sworn in opposition to the Application and he submitted an exhibit for the Board to review.

Beth Doty was sworn in and testified in opposition to the Application and testified that she has worked with the homeless for years; that the homeless are a difficult population to work with; that the revitalization of this community will be adversely affected by the homeless shelter; that hundreds of thousands of dollars have been spent on improvements in the neighborhood; that the community has seen a drop in drug activity since the revitalization; that she works with the land trust in the community to build affordable housing in the area; that the shelter will hurt the trajectory of the improvement; that the shelter will change the perception of the West Rehoboth neighborhood; that there has been a significant decrease in the number of service calls from Troop 7 in recent years; and that the shelter is perceived as a negative impact on the neighborhood.

Tom Billing was sworn in and testified in opposition to the Application and testified that he is a nearby resident; that the shelter will affect the stability of the neighborhood; that he is

concerned about safety; that the street is dark and there are no sidewalks; that the infrastructure is poor for this type of use; that the community is already fragile; and that the use will substantially adversely affect the uses of the neighboring and adjacent properties.

Laurie Bronstein was sworn in and testified in opposition to the Application and testified that she works with the West Side New Beginnings Community Center; that the children in the area come from low income homes; that there are no statistics on how a shelter affects the community center because shelters are not permitted within so many feet of children's centers and schools; that safety of the children is a huge concern; and that enforcement of the regulations are an issue if not properly governed.

In rebuttal, Mr. Hutt stated that safety concerns have been addressed by the Applicant; that the residents must be vetted prior to staying at the shelter to protect the neighboring community; that the Applicant is aware of the West Side New Beginnings Community Center and would like to collaborate with them; that the heart of the Application is provide a safe environment; that loitering will not be allowed; that a similar shelter in Seaford with less regulations works well with a nearby center; that no proof has been submitted to show the property values will decrease due to the homeless shelter; that the use will not substantially adversely affect the uses of the neighboring and adjacent properties; and that the Applicant looked at four other sites.

Ms. Idema testified that the definition of homeless includes persons who couch surf or reside with family members in an unstable situation.

In rebuttal, Janet Maull-Martin testified that the Applicant has still not demonstrated how the shelter will be safe or will benefit the community.

The Board found that eighteen (18) parties appeared in support of the Application.

The Board found that twenty-eight (28) parties appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **tabled until January 4, 2016**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Meeting Adjourned 11:25 p.m.

MINUTES OF JANUARY 4, 2016

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 4, 2016, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Workman, seconded by Mr. Rickard, and carried unanimously to approve the Revised Agenda with Old Business Case No. 11686 Immanuel Shelter, Inc., moved to the beginning of the Agenda. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes and Findings of Fact for November 16, 2015 as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

OLD BUSINESS

Case No. 11686 – Immanuel Shelter, Inc. – seeks a special use exception to operate an emergency homeless shelter (Section 115-72C of the Sussex County Zoning Ordinance). The property is located on the northwest corner of Hebron Road and Burton Avenue. 911 Address: 19878 Hebron Road, Rehoboth Beach. Zoning District: B-1. Tax Map No.: 3-34-13.19-2.00.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the case be tabled until January 25, 2016. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

PUBLIC HEARINGS

Case No. 11687 – Daniel P. Golden and Jeanette E. Golden – seek variances from the front yard setback requirements (Sections 115-34B and 115-182B & D of the Sussex County Zoning Ordinance). The property is located on the northeast corner of 5th Street and Surf Road. 911 Address: 103 5th Street, Unit C, Bethany Beach. Zoning District: MR. Tax Map No.: 1-34-13.16-27.00-Unit C.

MINUTES OF JANUARY 25, 2016

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 25, 2016, at 7:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Rickard.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Revised Agenda with the Old Business moved to the beginning of the Agenda. Motion carried 5 – 0.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to approve the Minutes and Finding of Facts for December 14, 2015 as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

OLD BUSINESS

Case No. 11686 – Immanuel Shelter, Inc. – seeks a special use exception to operate an emergency homeless shelter (Section 115-72C of the Sussex County Zoning Ordinance). The property is located on the northwest corner of Hebron Street and Burton Avenue. 911 Address: 19878 Hebron Road, Rehoboth Beach. Zoning District: B-1. Tax Map No.: 3-34-13.19-2.00.

Ms. Cornwell presented the case, which has been tabled since December 21, 2015.

Mr. Mills stated that the Applicant presented a strong case; that the opposition did not provide any professional witnesses to show how the shelter would negatively impact the neighborhood; and that he feel the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Mr. Hudson stated that he believes the proposed shelter is too close to the existing West Side New Beginnings children center; that the community has made big improvements over the years to create a safer environment; and that the children's safety is a main concern.

Mr. Workman stated that he believes the use is out of character with the neighborhood; that the crime has been significantly reduced in the area; that the neighborhood is concerned for the children's safety; that the shelter will change the character of the neighborhood; and that the use will substantially adversely affect the uses of the neighboring and adjacent properties.

Mr. Callaway stated that he believes the use is out of character for the neighborhood; that the community has testified the use will substantially adversely affect the uses of the neighboring and adjacent properties; and that the children's safety is a big concern.

Mr. Rickard stated that the crime has been reduced in the area; that the use will substantially adversely affect the uses of the neighboring and adjacent properties; and that he questioned who would enforce the rules of the shelter.

Mr. Rickard stated that he would move that the Board deny the Special Use Exception Application No. 11686 for the requested special use exception based on the record made at the public hearing and for the following reasons:

1. The Applicant failed to demonstrate that the proposed use will not substantially affect adversely the uses of the neighboring and adjacent properties.
2. The Applicant produced evidence that up to 22 individuals will live in the five bedroom shelter who are anticipated to stay at the shelter from 30 to 60 days, up to a maximum of 90 days and will be required to leave the shelter daily for work and appointments as needed. The Applicant presented testimony that many of the residents will likely bike or walk to a bus shelter for transportation to work and appointments. The bus shelter is located less than a mile from the Property. (Conflicting testimony was presented as to the actual distance from the homeless shelter to the bus stop but it was clear that the bus stop was within a mile of the site). As a result, the traffic in the neighborhood will be significantly increased. This increase in traffic is particularly troubling since the adjacent Hebron Road has no shoulders or sidewalks. The opposition has presented convincing testimony that the traffic along Hebron Road has been problematic and dangerous. The opposition cited that there have numerous pedestrian and bicycle accidents in the area. The addition of the homeless shelter will likely exacerbate the traffic and safety concerns in the area.
3. The proposed homeless shelter is to be located on land near residential properties and an operating children's center (West Side New Beginnings). The West Rehoboth community is a neighborhood with a long history – one which is recognized as important to the Board. At various points in time, however, the area suffered from crime and drug problems. Much effort and emphasis has been placed on improving the West Rehoboth community in recent years. These efforts have proven effective as the West Rehoboth community has also experienced a significant decrease in crime in recent years – including a 69% reduction in service calls to West Rehoboth over the last five (5) years. It is likely that such a decrease in crime is attributed to programs such as West Side New Beginnings which help give youth in West Rehoboth positive direction. The Board is concerned that the substantial adverse effect on the West Side New Beginnings program will be amplified to the overall West Rehoboth community. The homeless shelter is proposed to be located approximately 150 feet from West Side New Beginnings, which is a children's center used for educational programs for

children in the area. Children often bike or walk to and from West Side New Beginnings unattended by an adult or are dropped off by a school bus nearby. Other children are transported to the Center by their parents or family members. As part of the West Side New Beginnings program, children are active in the community outside of the confines of the children's center. Participants engage in clean-up activities, fundraisers, and outdoor recreation in West Rehoboth. The opposition expressed concerns, however, that the proposed homeless shelter located so close to the children's center will have a chilling effect on the participation of children in the programs at West Side New Beginnings. The opposition argued that parents will be reluctant to send their children to West Side New Beginnings due to the homeless shelter and participation in West Side New Beginnings will decline. This argument is both persuasive and convincing. A decline in participation at West Side New Beginnings will undoubtedly have a substantial adverse effect on the use of that neighboring property. A decline in the participation at West Side New Beginnings will also likely lead to the slowing or halt the momentum of the revitalization of the West Rehoboth community. Furthermore, the Board recognizes that children are an important and vulnerable class of people that the government has a compelling interest in protecting. Ensuring the safety and protection of this particularly vulnerable population required an affirmative showing by the Applicant as to how this particular use will not substantially affect adversely this particular population. We believe that this particular showing has not been made and as a result this proposed shelter will likely have a negative effect on the children's center and the vulnerable population served there. The Breakwater Junction bike trail is also located nearby and members of the opposition expressed concern that the homeless shelter would deter use of the trail; which has been a popular recreational trail used by tourists.

4. The Board also notes that there is significant opposition within the nearby West Rehoboth Community to the Application. The Board received correspondence and a petition signed by 68 neighbors objecting to the Application. The voice of the community is one which does not appear to support the shelter and the Board has taken this factor into consideration as well.
5. Ultimately, and for the above stated reasons, the application for a special use exception should be denied because the proposed homeless shelter will substantially affect adversely the uses of the neighboring and adjacent properties, and in addition, the particularly vulnerable population of nearby children enrolled at the already established West Side New Beginnings children's center.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried that the special use exception be **denied for the reasons stated**. Motion carried 4 – 1.

Mr. Mills voted nay to the motion and stated that there are differing uses of property in the neighborhood; that the existing building will not change the appearance of the neighborhood; that the Applicant planned to add additional lighting and a fence to the Property; that the Applicant had testimony from a real estate appraiser stating homeless shelters do not affect property values and

the proposed use is the highest and best use of the Property; that the opposition did not present any expert testimony to the contrary; that the Applicant submitted a proposed set of rules and regulations which indicated the residents will be vetted by the Homeless Planning Council and HUD system; that no registered sex offenders or individuals with a history of violent offenses would be permitted to live in the shelter; that the residents would be vetted by the Delaware State Police Troop 7 prior to living in the shelter; that house rules would be implemented and enforced; that no drug, alcohol, or weapons are permitted on the property; that no visitors are permitted; that the existing building will have a comprehensive fire suppression system installed and maintained; that there is no evidence the homeless shelter would increase the noise pollution in the area; that the traffic to and from the shelter will not substantially adversely affect the uses of the neighboring and adjacent properties; that the proposed site is close to the necessities; that the Board heard testimony in support of the Application that a homeless shelter in Seaford with less resident controls is located near Seaford Christian Academy with no reported incidents; that the shelter and the Seaford Christian Academy have engaged in joint activities; that the evidence also demonstrates that the proposed homeless shelter is an ideal location for the Applicant based on the criteria for state funding; and that based on the record the Applicant demonstrated the proposed use will not substantially affect adversely the uses of the neighboring and adjacent properties.

The vote by roll call: Mr. Mills – nay, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

~~**Case No. 11695 – Gerald W. Hocker, Trustee and Emily W. Hocker, Trustee** – seeks a special use exception to replace two (2) billboards and variances from the height, maximum square footage, side yard setback, and separation distance from a residential dwelling requirements (Sections 115-159.5B, 115-159.5B(2), 115-159.5B(3), 115-159.5C, 115-210A(3)(p), and 115-80C of the Sussex County Zoning Ordinance). The property is located at the southeast corner of Atlantic Avenue and Roxana Road. 911 Address: 34960 Atlantic Avenue, Ocean View. Zoning District: C-1. Tax Map No.: 1-34-12.00-330.01.~~

Ms. Cornwell presented the case, which has been tabled since January 4, 2016.

Mr. Rickard stated that the existing billboards have been on the Property since 2000; that the request is not a need, but a want; and that the proposed billboards will substantially adversely affect the uses of the neighboring and adjacent properties.

Mr. Workman stated that the variances are being created by the Applicant; that he has an issue with the height variance; that trucks will not block the proposed billboards; and that the Property can be reasonably used without the variances.

Mr. Mills and Mr. Hudson stated that they have no issues with the variances requested.

Mr. Callaway stated that he is opposed to all the requested variances.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried that the case be tabled until February 15, 2016. Motion carried 3 – 2.

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: IMMANUEL SHELTER

(Case No. 11686)

A hearing was held after due notice on December 21, 2015. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to operate an emergency homeless shelter.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to operate an emergency homeless shelter. This application pertains to certain real property located on the northwest corner of Hebron Road and Burton Avenue (911 Address: 19878 Hebron Road, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.19-2.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a survey of the Property dated October 8, 2004, a portion of the tax map of the area, and correspondence pertaining to the Application.
2. The Board found that the Office of Planning and Zoning received three (3) letters in support of the Application and nine (9) letters in opposition to the Application.
3. Janet Idema, Maxwell Wolf, and Glenn Piper were sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review which included a copy of the Application, a copy of the deed to the Property, portions of the Sussex County Tax Map, Google Earth imagery, Building Photographs, House Plans, a Delaware 2-1-1 brochure, DSHA Sussex County Fair Housing Choice Map, DSHA Sussex County Access to Transit Map, Intake Policy and Procedures, Admission Policies, House Rules, and newspaper articles.
4. The Board found that Mr. Hutt stated that many homeless persons lived in an area referred to as "Tent City" near Wal-Mart in Rehoboth and the Applicant assisted the persons living in "Tent City" with finding alternate living arrangements.
5. The Board found that Mr. Hutt stated that the Applicant is a 501(c)(3) organization which assists homeless persons in the greater Lewes-Rehoboth Beach-Dewey Beach area and the Applicant currently operates at the Faith United Methodist Hall as a Code Purple shelter which is open from December 1 until April 1. The proposed use is not the same as a Code Purple shelter.
6. The Board found that Mr. Hutt stated that the use will not have a negative physical, financial or societal impact on the neighborhood.
7. The Board found that Mr. Hutt stated that the Property is located in the West Rehoboth community and consists of approximately ¼ acre and the Property, which is zoned B-1, is improved by a building formerly used as office space for an appraisal company. The area near the Property consists of a mixed use of businesses and residences.
8. The Board found that Mr. Hutt stated that the Delaware State Housing Authority has determined that this area is "impacted."
9. The Board found that Mr. Hutt stated that the exterior of the existing building will remain the same but the Applicant plans to add additional lighting and a privacy

fence to the Property. The interior of the existing building will be remodeled to include the installation of a comprehensive fire suppression system and to make the building FHA and ADA compliant. The shelter will have five (5) bedrooms with a capacity of twenty-two (22) people.

10. The Board found that Mr. Hutt stated that the Property is an ideal location for the shelter and the use will not substantially adversely affect the uses of the neighboring and adjacent properties.
11. The Board found that Mr. Piper testified that he is a licensed appraiser and has worked as an appraiser for approximately twenty-three (23) years and has appeared in Delaware Courts to serve as an expert witness. He is familiar with the Property and the surrounding area.
12. The Board found that Mr. Piper testified that the use will not negatively impact the property values of the surrounding properties.
13. The Board found that Mr. Piper testified that the West Rehoboth community has improved in recent years.
14. The Board found that Mr. Piper testified that he has researched the impact of homeless shelters on property values for nearby properties. It is difficult to value properties in West Rehoboth as there are so few transactions in the community and, often, those transactions are complicated or have unique circumstances.
15. The Board found that Mr. Piper testified that he has never seen negative impact on property values from group housing and there are examples where property values have increased. His experience has shown no impact on property values from homeless shelters and many shelters and group homes fall under the radar and are not noticed by neighbors.
16. The Board found that Mr. Piper testified that the highest and best use of the building is not as an office or as a residence but as a specialty use.
17. The Board found that Mr. Piper testified that Habitat for Humanity has placed a home in the community.
18. The Board found that Mr. Piper testified that the location is within walking distance of downtown Rehoboth Beach and bus transportation is available nearby.
19. The Board found that Ms. Idema testified that she is the President of the Board for Immanuel Shelter and she has been with the organization for six (6) years. The organization currently helps homeless in the Lewes, Rehoboth Beach, and Dewey Beach area.
20. The Board found that Ms. Idema testified that housing is a basic need for people and that Code Purple shelters are only open when the temperature is below 32 degrees and persons must leave each day. The Applicant's Code Purple shelter is open to anyone. An emergency shelter differs from a Code Purple shelter because individuals are not required to leave the shelter each day and may stay up to 90 days depending on how they progress through a list of expectations. 90 days would be the maximum allowable stay at the shelter.
21. The Board found that Ms. Idema testified that all residents must go through the Central Homeless Planning System and all residents will be vetted by the Delaware State Homeless Planning Council and the HUD process which focuses on dangerousness. The residents cannot be sex offenders, have no active capiases, or have a history of violent offenses. Delaware State Police Troop 7 will also vet all potential residents to confirm that these standards are met.
22. The Board found that Ms. Idema testified that the Applicant has drafted an intake policy, admission criteria, and house rules and all residents must meet and follow the shelter's rules and regulations during their stay. No drugs, alcohol, or weapons are permitted in the shelter and residents are required to attend self-help groups, counseling, and life skills classes. Residents must also be actively seeking employment.

23. The Board found that Ms. Idema testified that the Applicant hopes to work with West Side New Beginnings.
24. The Board found that Ms. Idema testified that the Applicant looked at three (3) other properties for the shelter.
25. The Board found that Ms. Idema testified that in order to qualify for State funding the shelter must be located in a highly impacted area and within 1.5 miles from certain amenities such as grocery, banking, bike path, bus routes, and libraries. This location meets all of those requirements.
26. The Board found that Mr. Wolf testified that he is the reverend at All Saints Church and is involved with a task force on homeless in this area.
27. The Board found that Mr. Wolf testified that the Community Resource Center is located near Route 1 and provides employment training and it is very difficult to find an appropriate location for this type of shelter. It is particularly expensive to find a location within a mile of the Community Resource Center.
28. The Board found that Mr. Wolf testified that homeless persons are camping in the nearby woods and the shelter will help connect the homeless with job placement and other services needed.
29. The Board found that Mr. Wolf testified that he has been working with homeless people since 2001 and he has never seen a negative effect in a neighborhood from a shelter.
30. The Board found that Mr. Hutt stated that a licensed appraiser testified the shelter would not have a negative impact to the property values in the area.
31. The Board found that Mr. Hutt stated that loitering will not be an issue.
32. The Board found that Mr. Hutt stated that the daycare or after school programs will not be negatively impacted due to the screening process all residents must pass in order to stay at the shelter. Any violations to the rules and regulations results in expulsion from the shelter.
33. The Board found that Ms. Idema testified that each person at the shelter will have their own bed and dresser. Residents will receive mail at the shelter and will likely consider it to be their home for the duration of their stay. No visitors are allowed in the shelter.
34. The Board found that Ms. Idema testified that the vetting process is estimated to take a couple of days and the vetting process will prevent some homeless for coming to the shelter for help because they will already know they will not qualify or want to comply with the regulations.
35. The Board found that Ms. Idema testified that there is a similar shelter in Milton known as Casa San Francisco.
36. The Board found that Ms. Idema testified that the shelter provides the residents with job training and the Applicant helps with transportation when needed.
37. The Board found that Ms. Idema testified that the street is dark near the Property so the Applicant will install street lighting along the front of the Property. The lighting will improve safety in the community.
38. The Board found that Ms. Idema, under oath, affirmed the statements made by Mr. Hutt.
39. The Board found that Rhona Prescott, Jim Martin, John Elliott, Randy Redard, and Maryanne Zakreski were sworn in and testified in support of the Application.
40. The Board found that Ms. Prescott testified that she is a social worker and that homeless people are already in the area. There have not been any police incidents in the area involving the current homeless and that an emergency shelter is greatly needed in this area.
41. The Board found that Mr. Martin testified that he is involved with a similar shelter in Seaford near the Seaford Christian Academy and the shelter has had no negative impact to the neighborhood. According to Mr. Martin, the shelter and the center have a positive relationship and have held a successful joint event.

The Seaford shelter is less restrictive than the proposed shelter and there have not been any incidents.

42. The Board found that Mr. Martin testified that he has worked in opening 23 transitional homes in the State of Delaware and those homes are located near parks and schools.
43. The Board found that Mr. Elliott testified that he has been homeless since October 2015 after the loss of his mother and he currently uses the Code Purple Shelter when available. Immanuel Shelter has helped him a great deal as he is currently seeking employment. According to Mr. Elliott, this shelter would be a very positive environment.
44. The Board found that Mr. Redard testified that he is the counselor and homeless liaison for the Cape Henlopen School District and there are a number of children in the area that are homeless. He believes there is a need for this type of shelter.
45. The Board found that Ms. Zakreski testified that Project Home in Philadelphia runs shelters and in areas near the shelters property values have increased over the years.
46. The Board found that Janet Maull-Martin, Marti John, Brenda Milbourne, Paul Eberhardt, Robert Paul, Chuck King, Richard Faull, Beth Doty, Tom Billing, and Laurie Bronstein were sworn in and testified in opposition to the Application. Mr. Eberhardt and Mr. Faull submitted exhibits for the Board to review.
47. The Board found that Ms. Maull-Martin testified that she is the President of West Side New Beginnings Board of Directors and a former teacher. She does not oppose the homeless but does not believe that the shelter should not be in such close proximity to a children's community center.
48. The Board found that Ms. Maull-Martin testified that the children may stop coming to the center with the homeless shelter so close. The shelter is approximately 150 feet from the children's center. The existence of the shelter may deter the participation of children in the programs at the children's center.
49. The Board found that Ms. Maull-Martin testified that homeless shelters should not be located near children's centers and that the safety of the children is a great concern.
50. The Board found that Ms. Maull-Martin testified that at the Applicant has not met the standard for a special use exception because this use will substantially adversely affect the surrounding and neighboring properties.
51. The Board found that Ms. John testified that she purchased property in the West Rehoboth community in 2012 and she likes that the community consists of year round residents that take pride in their community.
52. The Board found that Ms. John testified that the history of the community was troubled but the residents have united and revitalized the area. The community stabilizes when you have permanent, year-round residents and she has concerns about the temporary residents who will reside at the shelter. The shelter will bring strangers to the area and she is concerned that the temporary residents will not be invested in continuing the revitalization of West Rehoboth.
53. The Board found that Ms. John testified that she is concerned for the safety of the residents of the community and that the shelter will adversely affect the uses of the neighboring and adjacent properties.
54. The Board found that Ms. Milbourne testified that she lives in the area and that there are no homeless people in the area.
55. The Board found that Ms. Milbourne testified that a number of children in the community attend the West Side New Beginnings Community Center and the center has provided a safe and educational option for children of working parents.

56. The Board found that Ms. Milbourne testified that she is concerned about increased traffic to the area.
57. The Board found that Ms. Milbourne testified that the shelter will hurt the growth of the community and she has concerns that the shelter will affect the safety and property values in the community.
58. The Board found that Ms. Milbourne testified that she believes the police have been called to Immanuel Shelter at its other location seven times.
59. The Board found that Mr. Eberhardt testified that he lives on Burton Road and that there are fifty-one (51) occupied homes in the area.
60. The Board found that Mr. Paul testified that he owns property in the area and he is concerned the vetting process will not work.
61. The Board found that Mr. Paul testified that there are twenty-seven (27) states that have banned homeless shelters from being less than 500 feet from a community center where children attend.
62. The Board found that Mr. Paul testified that parents will be afraid to take their children to the community center if the homeless shelter is approved.
63. The Board found that Mr. Paul testified that the West Rehoboth community is fragile and has experienced problems with drugs in the past.
64. The Board found that Mr. Paul testified that hundreds of people use the nearby bike path and feels this use will jeopardize the safety of the bike path.
65. The Board found that Mr. Paul testified that there are no homeless people in the West Rehoboth area.
66. The Board found that Mr. King testified that he is the President of the Homeowners Association for Sea Coast Court which is adjacent to the Property. He is concerned the shelter will adversely affect his community's property values.
67. The Board found that Mr. King testified that there is a drug sting operation currently in the Applicant's parking lot.
68. The Board found that Ms. Doty testified that she has worked with the homeless for years and they are a difficult population to work with.
69. The Board found that Ms. Doty testified that the revitalization of this community will be adversely affected by the homeless shelter. Hundreds of thousands of dollars have been spent on improvements in the neighborhood and the community has seen a drop in drug activity since the revitalization. There has been a significant decrease in the number of service calls from Troop 7 in recent years.
70. The Board found that Ms. Doty testified that she works with the land trust in the community to build affordable housing in the area and the shelter will hurt the trajectory of the improvement. The shelter will also change the perception of the West Rehoboth neighborhood. The shelter is perceived as a negative impact on the neighborhood.
71. The Board found that Mr. Billing testified that he is a nearby resident and that the shelter will affect the stability of the neighborhood. He is concerned about safety. The street is dark and there are no sidewalks. The infrastructure is poor for this type of use and the community is already fragile.
72. The Board found that Ms. Bronstein testified that the use will substantially adversely affect the uses of the neighboring and adjacent properties.
73. The Board found that Ms. Bronstein testified that she works with the West Side New Beginnings Community Center and the children in the area come from low income homes.
74. The Board found that Ms. Bronstein testified that there are no statistics on how a shelter affects the community center because shelters are not permitted within so many feet of children's centers and schools. Safety of the children is a huge concern.

75. The Board found that Ms. Bronstein testified that enforcement of the regulations is an issue if not properly governed.
76. The Board found that Mr. Hutt stated that safety concerns have been addressed by the Applicant. Residents must be vetted prior to staying at the shelter to protect the neighboring community.
77. The Board found that Mr. Hutt stated that the Applicant is aware of the West Side New Beginnings Community Center and would like to collaborate with them.
78. The Board found that Mr. Hutt stated that the heart of the Application is provide a safe environment.
79. The Board found that Mr. Hutt stated that a similar shelter in Seaford with less regulations works well with a nearby center.
80. The Board found that Mr. Hutt stated that no proof has been submitted to show the property values will decrease due to the homeless shelter.
81. The Board found that Mr. Hutt stated that the Applicant looked at four other sites.
82. The Board found that Ms. Idema testified that the definition of homeless includes persons who couch surf or reside with family members in an unstable situation.
83. The Board found that eighteen (18) parties appeared in support of the Application.
84. The Board found that twenty-eight (28) parties appeared in opposition to the Application.
85. The Board tabled the Application until January 25, 2016.
86. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board has considered and weighed, the Board determined that the application failed to meet the standards for granting a special use exception because the proposed homeless shelter will substantially affect adversely the uses of neighboring and adjacent properties. The findings below further support the Board's decision to approve the Application.
 - a. Traffic:
 - i. The Applicant produced evidence that up to 22 individuals will live in the shelter which is anticipated to have five (5) bedrooms. The individuals are anticipated to stay at the shelter from 30 to 60 days, up to a maximum of 90 days and will be required to leave the shelter daily for work and appointments as needed. The Applicant presented testimony that many of the residents will likely bike or walk to a bus shelter for transportation to work and appointments. The bus shelter is located less than a mile from the Property. (Conflicting testimony was presented as to the actual distance from the homeless shelter to the bus stop but it was clear that the bus stop was within a mile of the site). As a result, the traffic in the neighborhood will be significantly increased. This increase in traffic is particularly troubling since the adjacent Hebron Road has no shoulder or sidewalks. The opposition has presented convincing testimony that the traffic along Hebron Road has been problematic and dangerous. The opposition cited that there have been numerous pedestrian and bicycle accidents in the area. The addition of the homeless shelter will likely exacerbate the traffic and safety concerns in the area.
 - b. Character of the Neighborhood:
 - i. The proposed homeless shelter is to be located on land near residential properties and an operating children's center (West Side New Beginnings).
 - ii. The West Rehoboth community is a neighborhood with a long history – one which is recognized as important by the Board. At

various points in time, however, the area suffered from crime and drug problems. Much effort and emphasis has been placed on improving the West Rehoboth community in recent years. These efforts have proven effective as the West Rehoboth community has also experienced a significant decrease in crime in recent years – including a 69% reduction in service calls to West Rehoboth over the last 5 years. It is likely that such a decrease in crime is attributed to programs such as West Side New Beginnings which help give youth in West Rehoboth positive direction. The Board is concerned that the substantial adverse effect on the West Side New Beginnings program will be amplified to the overall West Rehoboth community.

- iii. The homeless shelter is proposed to be located approximately 150 feet from West Side New Beginnings, which is a children's center used for educational programs for children in the area. Children often bike or walk to and from West Side New Beginnings unattended by an adult or are dropped off by a school bus nearby. Other children are transported to the Center by their parents or family members. As part of the West Side New Beginnings program, children are active in the community outside of the confines of the children's center. Participants engage in clean-up activities, fundraisers, and outdoor recreation in West Rehoboth. The opposition expressed concerns, however, that the proposed homeless shelter located so close to the children's center will have a chilling effect on the participation of children in the programs at West Side New Beginnings. The opposition argued that parents will be reluctant to send their children to West Side New Beginnings due to the homeless shelter and participation in West Side New Beginnings will decline. This argument is both persuasive and convincing. A decline in participation at West Side New Beginnings will undoubtedly have a substantial adverse effect on the use of that neighboring property. A decline in the participation at West Side New Beginnings will also likely lead to the slowing or halt of the momentum of the revitalization of the West Rehoboth community. Furthermore, the Board recognizes that children are an important and vulnerable class of people that the government has a compelling interest in protecting. Ensuring the safety and protection of this particularly vulnerable population requires an affirmative showing by the applicant as to how this particular use will not substantially affect adversely this particular population. We believe that this particularized showing has not been made and, as a result, this proposed shelter will likely have a negative effect on the children's center and the vulnerable population served there.
- iv. The Breakwater Junction bike trail is also located nearby and members of the opposition expressed concern that the homeless shelter would deter use of the trail; which has been a popular recreational trail used by tourists.
- v. The Board also notes that there is significant opposition within the nearby West Rehoboth Community to the Application. The Board received correspondence and a petition signed by 68 neighbors objecting to the Application. The voice of the community is one which does not appear to support the shelter and the Board has taken this factor into consideration as well.


- c. Ultimately, and for the above stated reasons, the application for a special use exception should be denied because the proposed homeless shelter will substantially affect adversely the uses of neighboring and adjacent properties, and in addition, the particularly vulnerable population of nearby children enrolled at the already established West Side New Beginnings children's center.

The Board denied the special use exception application finding that it failed to meet the standards for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was denied. The Board Members in favor of the motion to deny were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard. Mr. John Mills voted against the Motion to deny the special use exception.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

Date March 22, 2016